

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2869

Introduced by Assembly Member Chávez

February 19, 2016

~~An act to amend Section 16000.1 of the Welfare and Institutions Code, relating to foster care. An act to add Section 328.1 to the Welfare and Institutions Code, relating to juveniles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2869, as amended, Chávez. ~~Foster care: placement. Dependent children: military notification.~~

Existing law provides that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court in certain cases, including when the child has suffered, or is at substantial risk of suffering, serious physical harm or illness as a result of the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law requires a social worker who has cause to believe that a child has been abused or neglected to immediately conduct an investigation to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced.

This bill would require a social worker, when he or she is conducting that investigation, to ascertain whether the parent or guardian of the child, or that person's spouse, is a member of the Armed Forces, as specified. The bill would require the social worker to notify the applicable military Family Advocacy Program when there is an open investigation, relating to a military parent or guardian, or a military

spouse of the parent or guardian, to determine if a child has been abused or neglected.

Because this bill would impose additional duties on social workers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law declares, among other things, that the state has a duty to care for and protect the children that the state places into foster care, and as a matter of public policy, the state assumes an obligation of the highest order to ensure the safety of children in foster care, and a judicial order establishing jurisdiction over a child placed into foster care supplants or limits parental or previous adult authority. Existing law also declares the intent of the Legislature to confirm the state's duty to comply with all requirements of the federal Social Security Act that are relevant to the protection and welfare of children in foster care.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 328.1 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 328.1. (a) A social worker who is conducting an investigation
- 4 described in Section 328 shall make every effort as soon as
- 5 practicable to ascertain whether the parent or guardian of the
- 6 child, or that person's spouse, is a member of the Armed Forces.
- 7 (b) If the parent or guardian of a child who is the subject of an
- 8 investigation described in Section 328, or that person's spouse, is
- 9 a member of the Armed Forces, the social worker shall notify the
- 10 Family Advocacy Program of the military installation at which
- 11 the member is stationed that there is an open investigation, relating
- 12 to that military parent or guardian, or that military spouse of the
- 13 parent or guardian, to determine if the child is a person described
- 14 in Section 300.

SEC. 2. *To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state nor otherwise be subject to Section 6 of Article XIII B of the California Constitution.*

SECTION 1. ~~Section 16000.1 of the Welfare and Institutions Code is amended to read:~~

~~16000.1. (a) The Legislature finds and declares all of the following:~~

~~(1) The state has a duty to care for and protect the children that the state places into foster care, and as a matter of public policy, the state assumes an obligation of the highest order to ensure the safety of children in foster care.~~

~~(2) A judicial order establishing jurisdiction over a child placed into foster care supplants or limits parental or previous adult authority.~~

~~(3) This section is not intended to change the balance of liability between the state and the counties as it existed prior to the decision of the California Court of Appeal in County of Los Angeles v. Superior Court of Los Angeles: Real Party in Interest Terrell R. (2002) 102 Cal.App.4th 627, as established by the decision of the California Court of Appeal in Scott v. County of Los Angeles (1994) 27 Cal.App.4th 125. Furthermore, this section is not intended to increase or decrease the liability of the state as it existed prior to the Terrell R. case.~~

~~(b) (1) It is the intent of the Legislature that the decision of the California Court of Appeal in County of Los Angeles v. Superior Court of Los Angeles: Real Party in Interest Terrell R. (2002) 102 Cal.App.4th 627, shall not be held to change the standards of liability and immunity for injuries to children in protective custody that existed prior to that decision.~~

~~(2) It is the intent of the Legislature to confirm the state's duty to comply with all requirements under Part B of Title IV of the Social Security Act (42 U.S.C. Sec. 621 et seq.) and Part E of Title~~

- 1 ~~IV of the Social Security Act (42 U.S.C. Sec. 670 et seq.) that are~~
- 2 ~~relevant to the protection and welfare of children in foster care.~~

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